

# **EXHIBIT A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

DIGITAL DRILLING DATA :  
SYSTEMS LLC : Civil Action No.  
vs. : 4:15-cv-2172  
PETROLINK SERVICES INC. :  
& LEE GEISER :

VIDEOTAPED DEPOSITION OF NILS ANDERS BENSON, 30(b)(6)  
AND INDIVIDUALLY

THIS TRANSCRIPT CONTAINS ATTORNEYS' EYES ONLY TESTIMONY

Called as a witness by the Defendants, taken before  
Peggy Ann Antone, a Certified Shorthand Reporter in and  
for the State of Texas, on February 21, 2017, beginning  
at 9:05 a.m., at the offices of Blank Rome, LLP, 717  
Texas Avenue, Suite 1400, Houston, Texas, pursuant to  
the Federal Rules of Civil Procedure and the following  
stipulation and agreement of counsel:

A P P E A R A N C E S

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1 ALSO PRESENT:

2 Lee Geiser

3 Phoeun Pha

4 Steve Green, Videographer, DepoTexas

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: Do you want to waive the  
3 Federal rule requiring read-in?

4 MR. BRUCCULERI: I usually don't do that.  
5 I'm happy to do it.

6 MR. MIMS: I don't need it.

7 MR. ZINDA: Waive it.

8 MR. MIMS: Which is under the rules, I  
9 assume. Right?

10 You want to do review and signature;  
11 correct?

12 MR. ZINDA: Yeah.

13 THE VIDEOGRAPHER: Date is February 21st,  
14 2017. Time is approximately 9:06 a.m. We're on the  
15 record.

16 NILS ANDERS BENSON,  
17 having been first duly sworn, testified as follows:

18 EXAMINATION

19 QUESTIONS BY MR. MIMS:

20 Q. Please state your name.

21 A. My name is Nils Anders Benson.

22 Q. And where do you reside?

23 A. I reside in Dallas, Texas.

24 Q. What's your street address?

25 A. 8307 San Cristobal Drive, Dallas, Texas 75218.

1 A. Yeah, this comes out of our source control.

2 Q. Right. And your lawyers produced it to us?

3 A. Correct.

4 Q. If you look at the very top, "Change 19473."

5 A. Uh-huh.

6 Q. On 6-30 by you; correct?

7 A. Uh-huh.

8 Q. "Merging changes to support locking petrolink  
9 out of our database."

10 A. Uh-huh.

11 Q. So isn't it true that actually you had already  
12 started to lock them out before you got called to the  
13 Crescent rig on 7 -- July 2nd, 2015.

14 A. Well, while I referred to Petrolink in this  
15 check-in comment, it more generally locked out anything  
16 that was unauthorized.

17 Q. Right. But it had the effect of locking out  
18 not only Petrolink, but other programs.

19 A. Correct.

20 (Exhibit 38 was marked.)

21 Q. (BY MR. MIMS) Mr. Benson, the court reporter  
22 has handed you Exhibit 38.

23 Do you see -- you recognize this page?

24 A. Yes. It's from our support site.

25 Q. Right. And if you look at data storage,

1 there's a quote here that says, "All data generated by  
2 the DigiDrill system is stored in an open database file  
3 to give the user the ability to query the data using  
4 off-the-shelf software products."

5 Now I wanted to ask you about this -- that  
6 sentence.

7 A. Uh-huh.

8 Q. What off-the-shelf software products could be  
9 used?

10 A. Well, it would really depend.

11 Q. Can you name the ones you were referring to in  
12 this message to your customers?

13 A. I wasn't referring to any specifically. This  
14 was a marketing line that we put together and it did  
15 refer specifically to a much older version of the  
16 software.

17 Q. Right. So you also said it was stored in an  
18 open database file.

19 That would be the Firebird database,  
20 wouldn't it?

21 A. No, it was Microsoft Access.

22 Q. Well, this was still on your web page in 2014;  
23 correct?

24 A. That was an oversight.

25 Q. But it was on your web page.

1           A.    Yes.

2           Q.    Correct?  Who was in charge of the web page?

3           A.    No one in particular.

4           Q.    Well, there had to be somebody who put these  
5 pages up.  Who put this page up that we're referring to  
6 as Exhibit 38?

7           A.    I don't know.

8           Q.    Someone in marketing?

9           A.    Possibly.

10          Q.    Would it be someone -- so you don't know who  
11 did it?

12          A.    This particular page, no, I don't.

13                   (Exhibit 39 was marked.)

14          Q.    (BY MR. MIMS)  I've handed you Exhibit 39.  And  
15 do you recognize this as --

16          A.    This is from --

17          Q.    -- an updated file from your web page?

18          A.    This is from the main website.

19          Q.    Today.

20          A.    No, it does not say this today.

21          Q.    It doesn't have the change in the database  
22 storage paragraph that we just --

23          A.    Or, rather, yes, it does, it no longer says,  
24 "...an open database file..."

25          Q.    Right.  So you changed that.



1 A. Yes, we did.

2 (Exhibit 40 was marked.)

3 Q. (BY MR. MIMS) The court reporter has handed  
4 you Exhibit 40.

5 A. Uh-huh.

6 Q. And can you identify this as also coming from  
7 your website?

8 A. Yes. This is an older version of the main  
9 website.

10 Q. And this is -- the one I just handed you, 39,  
11 is the updated current version?

12 A. That's correct.

13 Q. Do you know when that change was made?

14 A. Yes. That change was made when -- around the  
15 time period that we filed the suit.

16 Q. So prior to the lawsuit, Exhibit 40 was on your  
17 web page.

18 A. Yes.

19 Q. And this one says, on the -- this is -- what  
20 did you call this? The --

21 A. Support site?

22 Q. Yeah. It's the main -- main website, you said,  
23 on 40.

24 A. 40 is the main website, yes.

25 Q. Okay. When you say the main website, what is

1 the other kind of website?

2 A. We have three.

3 Q. Can you identify those for me?

4 A. We have the main website, which is

5 www.digidrill.com.

6 Q. Okay.

7 A. We have the support website, which is

8 support.digidrill.com, and that also includes our

9 ticketing system. And then we have our realtime site,

10 which is LiveLog.digidrill.com.

11 Q. And the realtime site is for people to access

12 data.

13 A. Correct.

14 Q. So your main website had this, up until the

15 time of the lawsuit, had this same sentence that says,

16 "All data generated by the DigiDrill system stored in an

17 open database file to give the user the ability to query

18 the data using off-the-shelf software products." Right?

19 A. Yes.

20 Q. Did anyone ever ask you about off-the-shelf

21 software products?

22 A. No.

23 Q. Are you -- were you involved in the marketing

24 of this software?

25 A. Not particularly.

1 Q. Who -- who primarily marketed this software to  
2 the MWD companies we care about in this lawsuit?

3 A. We didn't really have to do much marketing to  
4 sell the product.

5 Q. But who did it?

6 A. It depends on the time period.

7 Q. Let's say 2012 to 2015.

8 A. It would have primarily been Adam Erwin.

9 Q. Does Adam Erwin still work for DigiDrill?

10 A. Yes.

11 Q. What's his current position?

12 A. He is a sales manager.

13 (Exhibit 41 was marked.)

14 Q. (BY MR. MIMS) Can you identify Exhibit 41?

15 A. Yeah, this looks like it's a tri-fold sales  
16 brochure.

17 Q. Who would have prepared this sales brochure?

18 A. I don't know who prepared this one exactly.

19 Maybe it was Adam, maybe it was Cory. I'm not sure.

20 Q. Who was the second name, Cory?

21 A. Cory Sangster.

22 Q. Is he still with you?

23 A. Yes.

24 Q. And he's in sales?

25 A. He's COO.

1 Q. Oh, he's the chief operating officer?

2 A. Yes.

3 Q. What are Cory's duties?

4 A. He primarily oversaw day-to-day operations in  
5 Houston.

6 Q. How many locations do you have?

7 A. We had two.

8 Q. You used the past tense. How many do you have  
9 today?

10 A. Technically we have two. If you count my  
11 house.

12 Q. And your house is in Dallas?

13 A. Yes.

14 Q. How many offices do you have outside of your  
15 home?

16 A. One.

17 Q. Okay. And that's in Dallas?

18 A. That's in Houston.

19 Q. That's in Houston. And Cory is full-time COO?

20 A. Yes.

21 Q. All right. So if you look at Exhibit 41, under  
22 DataLogger.

23 A. Yes.

24 Q. The third item in the listing is, "Open  
25 database storage format."

1           A.    Yes.

2           Q.    So were you aware that this was on this  
3 brochure?

4           A.    No.

5           Q.    Did anyone ask you to review these brochures?

6           A.    Before we printed them?

7           Q.    Yes, sir.

8           A.    Not typically, no.

9           Q.    What time frame -- strike that.

10                   Was there a prior version of this or was  
11 this sort of the only marketing material that listed all  
12 the products?

13           A.    You know, I'm sure that there were older  
14 versions of this, but I'm also pretty certain that most  
15 of this text was carried over from version to version of  
16 these brochures.

17                   MR. MIMS: We're going to have to stop  
18 because we have a disc change, so let's go off the  
19 record.

20                   THE VIDEOGRAPHER: 10:07. Off record.  
21                   (Recess taken from 10:07 a.m. to  
22                   10:22 a.m.)

23                   THE VIDEOGRAPHER: 10:22. Back on the  
24 record. Disc 2.

25           Q.    (BY MR. MIMS) Mr. Benson, you understand we're

1 Q. Of what?

2 A. That this application had been developed.

3 Q. Anything else you knew about Mr. Geiser when  
4 you filed the lawsuit, besides his direct knowledge?

5 A. Oh, I didn't know very much about him.

6 Q. Did you do any investigation of Mr. Geiser  
7 before this lawsuit was filed?

8 MR. ZINDA: Objection. I just want to  
9 make -- direct the witness don't disclose the substance  
10 of any communication with counsel or any investigation  
11 counsel have done on behalf of DigiDrill.

12 A. I have not done any investigation of him.

13 Q. (BY MR. MIMS) Did you know any facts that  
14 suggested he was involved in the actual programming of  
15 the Petrolink program?

16 MR. ZINDA: Objection. Form as to time.

17 Q. (BY MR. MIMS) At the time you filed the  
18 lawsuit, when you -- when you verified this petition and  
19 brought a legal action against him.

20 A. That he had directly developed it?

21 Q. Yes.

22 A. Oh, I had no idea.

23 Q. Had anybody ever mentioned to you in your  
24 discussions with Phoeun or others at Petrolink that  
25 Mr. Geiser was involved in developing the application.

1           A.    In developing the application, no.

2           Q.    So why did you add him?

3           A.    Because he was the president at the time.

4           Q.    Did you have any other facts about his position  
5 as president besides the fact that he was the president?

6           A.    In what sense?

7           Q.    Did you understand anything about his financial  
8 interest in the company?

9           A.    No, I didn't know anything.

10          Q.    Did you try to find out?

11          A.    I didn't try to find out.

12          Q.    So all you had as a basis was that he was the  
13 president of this company and you assumed he had  
14 knowledge of these facts?

15                   MR. ZINDA:  Objection.  Misstates prior  
16 testimony.

17          Q.    (BY MR. MIMS)  All right.  Let me start over  
18 again.

19                   You knew he was the president.

20          A.    Yes.

21          Q.    Any other fact directly about this program that  
22 you knew when you filed this lawsuit?

23          A.    I knew that Phoeun said that they would not pay  
24 for WITSML data from us and that it had come from Lee.

25          Q.    All right.  So he wouldn't pay for the fee.

1 orchestrated and directed the preparation of Petrolink's  
2 Unlawful Data Scraper Program."

3 Do you see that?

4 A. Yes, I do.

5 Q. Tell me how -- what information and belief you  
6 had about his conception of this program.

7 A. I don't know that he conceived of the program.  
8 But it was done under his direction.

9 Q. I said "conceived." What evidence did you have  
10 at the time you filed this lawsuit of conception by  
11 Mr. Geiser?

12 A. I didn't have any.

13 Q. You had no evidence?

14 A. I did not at the time, no.

15 Q. You said on information and belief in your  
16 verification that he did, however; correct?

17 A. I did believe, yes.

18 Q. But you didn't -- you had no evidence?

19 A. No direct evidence.

20 Q. Do you have any circumstantial evidence that he  
21 conceived the program?

22 A. Based on my discussion with Phoeun, and it  
23 seemed to me at the time that nothing happened without  
24 his say-so.

25 Q. So your -- the basis of your filing a lawsuit



1 A. Well, if they need support, they can call in  
2 and they can be charged a fee per incident.

3 (Exhibit 46 was marked.)

4 Q. (BY MR. MIMS) I've handed you what's marked  
5 46.

6 And can you identify this document?

7 A. Yeah, it's also from the support site, and the  
8 FAQs, you know, the prerequisites for installing the  
9 DataLogger.

10 Q. Is this accurate?

11 A. Not entirely.

12 Q. What's -- what's inaccurate about it?

13 A. Well, it specifically calls out that Firebird  
14 needs to be installed on its own, but that's not true,  
15 because it's included with all of our application  
16 installers and is installed automatically as part of  
17 that process.

18 It is true that you need to install the  
19 driver setup for either your 32- or 64-bit system prior  
20 to installing the rest of the software.

21 Q. Well, it does -- this document in 2013 said you  
22 installed Firebird prior.

23 Why was it -- who would have written this?

24 A. In 2013, it could have been any number of  
25 people. I really don't know who wrote this

1 specifically.

2 Q. Well, in 2013, could you have installed  
3 Firebird first?

4 A. It would have been highly unlikely.

5 Q. All right. So you don't know why this was in  
6 there.

7 A. It's possible that it was in there just for  
8 completeness. You know, we do provide the Firebird  
9 installer, standalone download from our download site.  
10 There are situations where the Firebird installation can  
11 become corrupted for some reason. I don't really know  
12 what causes it.

13 And sometimes it is necessary to just  
14 simply reinstall Firebird.

15 Q. And when you say "reinstall," that means --  
16 what this is talking about is -- here, this sentence  
17 we're reading is that "DataLogger requires that the"  
18 drive -- "DigiDrill driver pack and Firebird SQL  
19 Database Server installed prior to running the setup for  
20 DataLogger..."

21 So what -- I didn't follow what you meant  
22 by that?

23 A. It is not true that you have to install  
24 Firebird on its own prior to installing our software.

25 Q. When you say that sometimes it's necessary to

1 just simply reinstall Firebird, is that when you've  
2 installed everything, it's still not working right, so  
3 you just reinstall it? Is that what you're saying?

4 A. Yeah. You could uninstall our entire  
5 installation package, make sure everything was removed,  
6 and reinstall it; or in some cases, it's faster to  
7 simply reinstall Firebird on its own. But it is not  
8 necessary to install Firebird on its own on a clean  
9 machine with no Firebird installation on it already. We  
10 include that.

11 Q. So down below, there's downloads for the  
12 drivers and Firebird, the open source software and  
13 database server.

14 A. Yes.

15 Q. So those are separate downloads. So they're  
16 not -- they're --

17 A. We --

18 Q. Right? You can download each of these  
19 individually?

20 A. You can, yes, but it is not necessary to  
21 download Firebird on its own.

22 Q. Well, you would click this, right, to download  
23 it?

24 A. This is not where you would get our downloads  
25 normally. This is not our download page for our

1 server is a facilitator for communication with a  
2 particular database.

3 Q. When you -- when DigiDrill -- strike that.

4 When a licensee downloads the Firebird  
5 database prior to this lawsuit, did you require the  
6 licensee to change the password for the database?

7 A. The Firebird database is installed as part of  
8 our installer package and the user is not required to  
9 change the password.

10 Q. In fact, none of your instructions in your  
11 manual and nothing in your contract mentioned anything  
12 about the Firebird database; right?

13 A. That's correct.

14 Q. And you knew that Firebird has a default  
15 database -- default password.

16 A. Yes, I did know that.

17 (Exhibit 52 was marked.)

18 Q. (BY MR. MIMS) Have you seen this Firebird FAQ  
19 before?

20 A. Yes, I have.

21 Q. And it indicates that when you set up a  
22 Firebird database, it comes with a built-in password,  
23 doesn't it?

24 A. Yes, it does.

25 Q. And it also comes with a default user ID.

1 A. Yes, it does.

2 Q. What's that user ID?

3 A. SYSDBA.

4 Q. So when your licensees downloaded the  
5 DataLogger and the Firebird and the drivers, when they  
6 turned -- when they started using that database, the  
7 user ID was still SYSDBA and the password was masterkey.

8 A. Yes, it was.

9 Q. When was the first time you ever discussed  
10 passwords with a MWD licensee?

11 A. We never have.

12 Q. You never have.

13 A. No.

14 Q. But you are aware of the -- the user ID and the  
15 password that were defaults?

16 A. Yes, I am aware of that.

17 Q. And you were aware of it when you were  
18 programming DataLogger?

19 A. Yes, we were aware of it.

20 Q. Earlier, we talked about some of the documents  
21 on your website.

22 A. Uh-huh. Yes.

23 Q. We talked about an open database to give the  
24 user the ability to query the data using off-the-shelf  
25 products.

1                   Didn't you know that an off-the-shelf  
2 product could be used to query the database using this  
3 user ID and password as default?

4           A.    I'm aware that it could be queried with a user  
5 name and a password.

6           Q.    Did you ever tell an MWD company not to access  
7 the Firebird database?

8           A.    No.   We also never told them that they could or  
9 what the user name and password were.

10                   MR. MIMS:   Object to the last part of the  
11 answer as nonresponsive.

12           Q.    (BY MR. MIMS)   Did you ever consider requiring  
13 the MWD companies to adopt a second user ID and a second  
14 password other than the default user ID and password?

15           A.    We considered a variety of options.

16           Q.    Did you ever consider that option?

17           A.    Possibly.

18           Q.    You don't recall?

19           A.    I don't recall.

20           Q.    What other options did you consider?

21           A.    We considered the possibility of changing the  
22 user name and/or password as part of our installer.

23           Q.    Did you ever do that?

24           A.    No, we did not.

25           Q.    When you were discussing, in 2014, with Mr. Pha

1 DIGITAL DRILLING DATA SYSTEMS LLC vs. PETROLINK SERVICES

2 INC. & LEE GEISER

3 NILS ANDERS BENSON

4

5 CHANGES AND SIGNATURE

6	PAGE	LINE	CHANGE	REASON
7	24	6	"ALS" to "LAS"	mistranscription
8	109	3	"PCP/IP" to "TCP/IP"	mistranscription
9	144	25	"collect" to "connect"	mistranscription
10	166	2	"books" to "box"	mistranscription
11	197	5	"reported" to "recorded"	mistranscription
12	198	24	"yet" to "yes"	mistranscription
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NILS ANDERS BENSON

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Page 2

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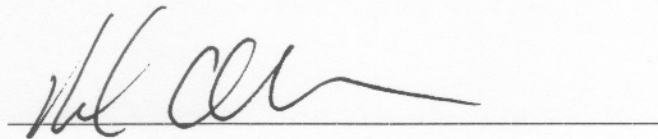
9

I, NILS ANDERS BENSON, have read the foregoing  
deposition and hereby affix my signature that same is  
true and correct, except as noted above.

12

13

14

A handwritten signature in dark ink, appearing to read 'Nils Anders Benson', is written over a horizontal line.

15

NILS ANDERS BENSON

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1 THE STATE OF TEXAS:

2 COUNTY OF HARRIS:

3

4 I, Peggy Ann Antone, Certified Shorthand  
5 Reporter in and for the State of Texas, do hereby  
6 certify that the facts stated by me in the caption  
7 hereto are true; that the foregoing deposition of NILS  
8 ANDERS BENSON, the witness hereinbefore named, was taken  
9 by me in machine shorthand, the said witness having been  
10 by me first duly cautioned and sworn under oath to tell  
11 the truth, the whole truth and nothing but the truth,  
12 and later transcribed from machine shorthand to  
13 typewritten form by me.

14 I further certify that the above and  
15 foregoing deposition, as set forth in typewriting, is a  
16 full, true and correct transcript of the proceedings had  
17 at the time of taking said deposition.

18 I further certify that I am neither  
19 attorney or counsel for, nor related to or employed by  
20 any of the parties to the action in which this  
21 deposition is taken, and further that I am not a  
22 relative or employee of any attorney or counsel employed  
23 by the parties hereto, or financially interested in the  
24 action.

25 I further certify that signature of the

1 witness was requested, and, if requested, the  
2 corrections/changes are attached.

3 I further certify that charges for the  
4 preparation of the foregoing completed deposition were \$  
5 \_\_\_\_\_ for the original thereof, charged to  
6 Attorney(s) for \_\_\_\_\_.

7 GIVEN under my hand and seal of office on  
8 this, the 23rd day of February, 2017.

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Peggy Ann Antone, RMR, CRR

13

Notary Public, State of Texas

14

Commission expires 8/28/20

15

16

DepoTexas, Inc.

17

Firm Registration No. 95

18

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